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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,994	11/01/2001	William John Goetzinger	ROC920010200US1	3592
31647	7590	07/26/2005	EXAMINER	
DUGAN & DUGAN, P.C. 55 SOUTH BROADWAY TARRYTOWN, NY 10591			NGUYEN, BINH QUOC	
			ART UNIT	PAPER NUMBER

2664

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/015,994

Applicant(s)

GOETZINGER ET AL.

Examiner

Binh Q. Nguyen

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2001.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 8-15 and 19-23 is/are allowed.
6) ☒ Claim(s) 1-3, 7, 16 and 17 is/are rejected.
7) ☒ Claim(s) 4-6, and 18 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06/18/02, 05/06/02
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 7, and 16-17 are rejected under 35 U.S.C. 102(e) as being anticipated by *Woo et al* the US Patent No: (US 6,850,490), hereinafter referred to as *Woo*.

Regarding claim 1; *Woo* teaches a data communication apparatus, comprising:
a plurality of output ports (*see Fig. 2A, col. 2, lines 24-32*); and
a scheduler adapted to assign priorities to outbound data frames (*see col. 2, lines 33-45, wherein packets mean frames*), the scheduler including one or more scheduling queues, each scheduling queue adapted to indicate an order in which data flows are to be serviced (*see col. 2, lines 33-50*), at least one scheduling queue having a respective plurality of the output ports assigned to the scheduling queue (*see col. 4, lines 2-7*).

Regarding claim 2; *Woo* teaches the data communication apparatus of claim 1, wherein the one or more scheduling queues are used for weighted fair queuing (*see col. 10, lines 15-24*).

Regarding claim 3; *Woo* teaches the data communication apparatus of claim 1, wherein the data frames are of varying sizes (*see col. 2, lines 51-62*).

Regarding claim 7; *Woo* teaches the data communication apparatus of claim 1, wherein the scheduler includes a first integrated circuit (*see Fig. 2A, wherein Distributed Schedulers 21 is a first integrated circuit*) and the output ports are included in a second integrated circuit coupled to the first integrated circuit (*see Fig. 2A wherein OUT1-OUTp is a second integrated circuit*).

Regarding claim 16; *Woo* teaches a method of operating a data communication apparatus, comprising: providing a scheduling queue in a scheduler (*see col. 2, lines 42-49*) for a network processor (*see Fig. 2A is a network processor*); and assigning a plurality of output ports to the scheduling queue (*see col. 4 lines 2-7*).

Regarding claim 17; *Woo* teaches the method of claim 16, wherein the scheduling queue is one of a plurality of scheduling queues provided in the scheduler (*see col. 2, lines 42-49*), and each of the scheduling queues has a respective plurality of output ports assigned thereto (*see col. 4 lines 2-7*).

Allowable Subject Matter

3. **Claims 4-6, and 18** are objected to as being dependent upon a rejected base claim, but would be allowable if rewrite in independent form including all of the limitation of the base claim and any intervening claims.

4. **Claims 8-15, and 19-23** are allowable.

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Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh Q. Nguyen whose telephone number is 571-272-8563. The examiner can normally be reached on M-F: 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully submitted,

By: 
Binh Q. Nguyen
Patent Examiner
07/20/2005



WELLINGTON CHIN
REVISORY PATENT EXAMINER